

MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF CLIFTON
July 17, 2024
7:00 P.M. REGULAR MEETING

COMMISSIONERS PRESENT:

DAVID BRAID (1A)
ALESSIA ERAMO
MAUREEN O'CONNOR
SCOTT SOCHON
MICHAEL MOLNER
GEORGE FOUKAS
VICE CHAIRMAN SCORZIELLO
CHAIRMAN ZECCHINO

ALSO PRESENT:

Nicholas Graviano, P.P., Board Planner
Anthony Kurus, P.E., Board Engineer
Liana Bolcato, Asst. Zoning Officer
Jessica Sweet, Esq., Counsel/Secretary

Chairman Zecchino called the Meeting to Order at 7:00 p.m.; he led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" public notice of the Board's 2024 regular meeting schedule was published in the Herald News on December 24, 2023. All notice requirements were satisfied. Chairman Zecchino announced the time, place, and form of notice as well as advising all applications that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

CONTINUED HEARINGS

1. **GEELAND, LLC 811-813 Rt 46, Block 34.03, Lots 75 and 77 – R-A2**
Continued from 2/7/24 (all eligible except Eisenman); 5/1/24 (all eligible except Braid);
and 6/19/24 (all eligible)

Attorney Michael Sullivan entered his appearance on the record, and identified the property which is the subject of the application, and the relief sought. Mr. Sullivan also summarized the prior testimony provided at the February 7 and May 1 hearings by the project engineer, and the architectural testimony presented at the June 19, 2024 meeting.

Mr. Sullivan advised the Board that the applicant intends to present the testimony of one witness at tonight's hearing; traffic engineer Andrew Viscio, PE, of Stonefield Engineering. Mr. Sullivan then stated that the applicant intends to revise the plans after tonight's hearing, and then asked that the application be carried to the next available meeting in September.

Mr. Andrew Viscio, PE, Stonefield Engineering, was sworn in by Ms. Sweet and his qualifications accepted by the Board as an expert in the field of traffic engineering. Mr. Viscio described the location of the subject property and the surrounding roadways; it has two curb cuts on Route 46, a State highway under DOT jurisdiction. The applicant is proposing a right-in/right-out driveway to Route 46. A DOT access permit is required under state regulations; due to the low volume of traffic generated by the proposed use, this is a minor access permit. The applicant has responded to DOT's comments and is awaiting a final determination on the permit.

Mr. Viscio testified in regard to the traffic report he prepared, dated April 17, 2024. He described his methodology and traffic counts taken. The two driveways currently serving the site will be consolidated into one driveway, a right-in, right-out to 46. Testifying with regard to sheet 5 of the site plans, Mr. Viscio stated that regrading is proposed in the DOT ROW to improve site distance to the driveway, which is currently poor. DOT has reviewed this and found the proposed improvements and design analysis to be acceptable. Testifying in regard to Sheet 6 of the submitted site plan, depicting the signs and site distance, Mr. V stated that a 16' sign is needed to advise motorists of the site; as proposed this can be seen from 600 feet away, this is an acceptable distance in terms of safety and sight distance. Returning to Sheet 6, Mr. V stated that the site has been designed to accommodate a 40' box truck and a Clifton City fire vehicle. The plans depict the site circulation and the total of 17 parking spaces proposed. Mr. V stated that although this does not meet the City ordinance but is sufficient to accommodate the use as per ITE and accepted industry standards. The driveway sight distance will be significantly improved under post-development conditions; the site distance to the sign and driveway are sufficient to give notice to passing motorists of the site and to stop in a safe manner. The applicant has been working with the fire department to satisfy their concerns about access and anticipate including an emergency access point on Ramp M that will be depicted on the revised plans to be filed. In response to questions from Mr. Kurus, Mr. Viscio clarified that this would be an emergency access point only and not accessible by the public; DOT has very specific design guidelines for this type of access and it will not look like a normal access point (it will be gated, etc.) Mr. Kurus asked questions about the specifics of the DOT access permit process; Mr. Viscio stated that the major point is that they need to submit a waiver request for design of the box truck; Mr. Kurus asked to be kept in the loop on future correspondence with DOT. Mr. Viscio said there are no outstanding comments but they will address the emergency access point.

Chair questioned the parking space discrepancy; how is the site able to function with only 17 parking spaces and the ordinance requires 67? Mr. Viscio said that the ordinance addresses typical warehouse uses, which is different from the proposed self-storage use. Based on ITE industry-standard data, Mr. Viscio stated that the parking needs are far lower than what the ordinance requires and clarified that the parking calculation is dependent on the size of the building. Chair asked if a story was removed from the building, how many less parking spaces would be required? Mr. Viscio said he does not have the floor area calculations and would need that information. Chair expressed concerns about the D6 height variance, and stated that he would like to know how many less parking spaces would be needed if a floor were removed. Mr. Viscio stated that the amount of traffic generated by the proposed development is not considered significant by any jurisdictional or industry standards, and the proposal before the Board today is well-designed to accommodate the traffic generated and parking demand for the proposed self-storage use. VC Scorziello asked if it would be reasonable to assume that if the building were

30% smaller, the parking would be 30% less; Mr. Viscio agreed. Mr. Graviano stated that the removal of a story would decrease the parking requirement under the ordinance by 25%. Mr. Sullivan reiterated that they have enough parking. Commissioner Foukas noted that the parking standards were determined prior to the advent of this type of use, but if this use failed and the building were to be reduced, the building would be underparked.

Eramo: what type of standard are you using for the parking standard? Mr. Viscio- this is industry data specific to self-storage facilities, whereas the City Ordinance addresses only general warehouse. Mr. Viscio said that there are approximately 840 self-storage units proposed in the building but will defer to the architect's testimony.

Interested parties:

- **Carl Haefele, 409 Colfax Ave.**, previously sworn, asked about the 530' sight line distance shown on the plan and stated that he's done substantial observations from the grocery center overpass, and stated that 540 cars per hour seem to be entering the roadway from Grove Street, and they tend to enter significantly closer (430-450') than the 530' sight line distance. Mr. Viscio stated that it is highly unlikely that those vehicles entering are already up to full speed; Mr. Viscio stated that he did conduct a speed study on Route 46 in June 2024, and the travel speed is 54.6 miles per hour (average speed in the rightmost travel lanes). Mr. Viscio stated that the traffic engineering handbook provides guidance as to how many vehicles required in their sample size; he is 99% confident as to the results of the study. Mr. Viscio further stated that he relied on the industry standard but Mr. Haefele questioned the veracity of this data.
- **Ann Schankenburg**, previously sworn, asked if this revised traffic study has been heard by the County Board; Mr. Viscio stated that he has not been involved in any submissions to the County. Ms. Schankenburg asked if they had met with the City's traffic board; Mr. Viscio said no. Ms. Schankenburg asked if they calculated the slower speed of a box truck and took that into account. Mr. Viscio stated that typically drivers will decelerate to make a right turn, and other drivers will adjust accordingly. Mr. Viscio stated that Ramp M does not have a posted speed limit, but it is less than 50 mph. Mr. Viscio testified that the typical speed of drivers on the ramp is identical to their design speed. Addressing the emergency access point along Ramp M, Mr. Viscio stated that it was determined in cooperation with Clifton's fire department, and they are in the process of working through issues regarding the fire access and DOT has been amenable to addressing that access. The revised plan will address the access point. The site engineer will provide testimony as to the revised plans. Ms. Schankenburg asked for other examples of similar sites with emergency access points on ramps like what they are discussing. Mr. Viscio said the point of the ramp is that it will allow for access to the site in the event of an emergency; he further stated that the City fire department wrote a letter of support to DOT and are in support of the proposed plan.
- **Vera Lazar, 22 Spencer Ave.**, previously sworn. Where is Ramp M? Mr. Viscio showed Ramp M as being to the east of the building; it is the ramp that comes off of Route 46 and exits into the intersection by Broad and Colfax. Vehicles using the facility will not use Ramp M; Ms. Lazar stated that Ramp M has tremendous traffic problems. The emergency access via Ramp M is an emergency ingress point only. Will that ingress

require additional tree removal from the site? Mr. Viscio said no, it is only the strip between the curb and property line and there are no trees there currently.

- **Alexandra Perlinski, 67 Martindale Road** Asked about the proximity of the schools to the site. Have you ever done counts during school dismissal times? Mr. Viscio stated that his study was localized to the area of the proposed driveway. Weekday peak hour: they anticipate only 7 vehicles entering in an hour; this is adding one car to Route 46 every 6 minutes during the morning peak hour. IP stated that this is a large parking lot, they are adding traffic to already overburdened roads. Adding anything to this traffic will adversely impact their lives. They didn't take into account heavy traffic in the afternoon between 2-3 pm
- **Doris Rascher:** Have you done any accident studies in this area? Mr. Viscio: he did research crash data on the DOT website; there were 5 crashes in the 5 years preceding COVID near the site frontage; approximately 1 crash per year near the site, which is very low. Using the years preceding COVID is more straightforward. Erodon (former use) has been closed for 6 years. Ms. Rascher said there is a lot of traffic in this area. Exiting the site driveway, the motorists will have the option to use Ramp M, but the site driveway is not on Ramp M. Weekday evening peak hour will have 10 vehicles entering/exiting the site; Mr. Viscio testified that as a result of the development, you might see 3 additional vehicles per hour using Ramp M. They are proposing grading improvements that will allow motorists on route 46 to see vehicles exiting the site, which is a significant improvement. They are going to regrade the grassy hill on the side of the road to create a clear line of sight. Ms. Rascher is concerned about the traffic and the number of accidents in the area.
- **Joan Jacobus, 73 Tristan Road,** was sworn in and then stated she will wait to provide her closing statements.
- **Cynthia Hadjiyannis, Esq., attorney representing City Green:**
 - No shoulder along Route 46? Yes, no shoulder along the site frontage
 - Vehicles making a right turn tend to decelerate to 10-15 mph;
 - Vehicles traveling along 46 typically travel at 56 mph; won't this slow down traffic? Mr. Viscio stated that it may not be necessary for the trailing vehicle to decelerate if they are leaving sufficient distance between vehicles.
 - Using PM peak hour is only 9 entering vehicles; this is a very minimal impact.
 - 2,903 vehicles traveling eastbound on 46; do you think there's likely to be much trailing distance? Mr. Viscio said there certainly could be.
 - Your report stated that the level of service at morning peak hours would be D and E if the storage facility is built; how bad is that? Mr. Viscio said both are acceptable. It cannot be compared to existing conditions due to the site distance and geometry of the site. The site is presently unoccupied so there's no information about the current level of service. Don't you have data on the current level of service? Mr. Viscio said they only evaluated the site driveways; if the building were open and operating, the current level of service might be better, but the safety would be substantially worse because the site distance and the grading is so poor; you can't see the traffic entering and exiting. Attorney: what is the difference between the impacts to Route 46 pre- and post-development conditions? That would require a highway segment analysis that is not required until they trip generation is over 300.

- **Lisa Ciccone, 68 Martindale Road:** Getting off of Route 46 to Grove street is extremely dangerous because of the two left turns. She asks a hypothetical question about traffic and a potential accident by a high school student. Mr. Viscio states that the sight lines will be greatly improved and will be improved over existing conditions. She asks about the Grove Street bridge being in the way of the site distance; Mr. Viscio says it is not.
- **Keith Bastford:** Have you done a traffic study from where Schumacher Chevy is to where your site entrance is? Mr. Viscio: I am not familiar with it. Mr. Bastford says it's important to get that accident data. Bastford talks about the acceleration lanes to 46 East, describes the speed of drivers on 46 and suggests the entrance driveway would be a problem. Bastford says he doesn't think there's enough room for cars to get into the site and they should look at that. Mr. Viscio replies that it only takes 125' to decelerate from 50 mph to 30 mph; you don't need a long distance to decelerate and let a vehicle in front of you to enter the site. How many car lengths would you need to stop before hitting the car that goes into the property? Mr. Viscio: 200' to slow down from 50 mph to 10 mph. That would bring you to approximately before the overpass, well before the driveway. You don't think this will cause major accidents? A lot of kids use these ramps and drive in this area. It will be a major problem. Bastford suggests that it would be important to study the length of 46 going back to Schumacher Chevy.

Vice Chair Scorziello: is the highway safer during periods of congestion or less congestion? Sunday afternoon or Monday morning? Mr. Viscio says he can't tell that without more data, but with more congestion you do see a rise in rear end crashes. More congestion, more traffic trips, is more dangerous than at higher speeds. Mr. Viscio said there's a correlation between more congestion and more crashes.

Interested Parties:

- **Roy Secado, 678 Broad Street,** previously sworn: Asks how far it takes a diesel truck or box truck to accelerate to 50 mph; Mr. Viscio said that's a complex calculation that he cannot do without more information. Mr. Secado testified that the site distance for vehicles exiting the site is very poor and there's no acceleration lane. These trucks pulling out into traffic will be a wild disaster.
- **Matthew O'Donnell, 75 Karen Dr.,** previously sworn: what is the level of service? No existing level of service because site is not occupied. Asks for clarification on the report. According to this report, the level of service (LOS) will be E under weekday evening peak hour. Viscio says this is the LOS for vehicles exiting the site at weekday evening peak hour; it will take them 45 seconds to leave the site. Is there major traffic in the area? Mr. Viscio says the report addresses the time that it will take the vehicles to exit the site. Mr. Viscio said they designed the site for large vehicles and less than half of the trip generation per hour would be large trucks, so approximately 4 per evening peak hour, 3 per morning peak hour.

Board Planner Graviano- have you analyzed the potential traffic impacts of a permitted or conditional use? Mr. Viscio replies that they haven't; this would require a zoning analysis of the other permitted uses and conditional uses and a determination as to how intense the

development. Mr. Viscio stated that any other permitted or conditional use would generate far more traffic and trips than what they are proposing.

- **Mark Janiak**, sworn in- asks some questions about the impacts of construction on highways around Clifton. Mr. Viscio- I spent 6.5 years as a municipal traffic engineer; I understand the impacts of traffic on constituents. Questions whether users will know “the unspoken rules of Clifton traffic” along this ramp; Mr. Viscio repeats that the site has been designed in accordance with accepted traffic safety standards.

The application will be carried to September 4, 2024 with no further notice.

NEW HEARINGS

1. AMEER SIGNS 1240 Main Ave., Bl. 11.16, Lot 2; Zone: BC

1240 Main Avenue requested an adjournment to next available hearing date: August 14, 2024.

2. ZALMAN & NURIT GURKOV, 87 Virginia Ave.; Block 50.09, Lot 19; Zone: RA2

The applicant is proposing a first-floor expansion and second floor addition which requires the following bulk variances; side yard setback proposed at 4' where 6' required (pre-existing nonconforming condition), combined side yard setback proposed at 13.3' where 16' required (pre-existing nonconforming condition), rear yard setback proposed at 26.6' where 35' required (pre-existing nonconforming condition), and lot coverage proposed at 33.1% where 30% required (26% existing).

Zalman and Nurit Gurkov testified in support of the application; they are seeking to add space for their growing family and the only new variance being requested is the lot coverage. The rear and side yard setback variances are all caused by the location of the existing house on the property, and are all continuations of pre-existing nonconforming conditions.

At the conclusion of the testimony, Commissioner Foukas made a motion to approve the application; Vice Chairman Scorziello seconded; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

3. JASON FRIEDMAN, 367 Rutherford Blvd., Bl. 58.10, Lot 18; Zone: RA3

The applicant is requesting to convert existing garage into living space which would require the following variances; driveway in front of the house not serving a garage, and a parking variance for one off street parking space where two are required.

Jason Friedman and his wife, Yochevada Friedman appeared *pro se* and testified that they are the owners of the house and are requesting variance relief to convert the existing garage into living space. In response to questions by Ms. Sweet, Mr. and Mrs. Friedman confirmed that the existing house is nonconforming with respect to the side (both and combined) and front yard setbacks, which restricts their ability to expand the house without variance relief. Mr. and Mrs. Friedman

further confirmed that the existing building coverage is close to the maximum (170 additional SF of coverage permitted by ordinance), so the interior conversion of the garage is the most efficient way to add living space without creating additional variance conditions. The driveway provides space to park one car, where the ordinance requires two off-street parking spaces. Mr. Friedman testified that there is plenty of parking on the street in the neighborhood. Commissioner Molner suggests that the bollards be placed into the wall to protect the structure and makes a motion to approve subject to this stipulation. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

4. 62 LAKE AVENUE, LLC 62 Lake Ave., Bl. 4.16, Lot 42; Zone: RB3

Glenn Peterson, Esq. entered his appearance on behalf of Applicant 62 Lake Avenue LLC; he presented the testimony of Anwar Aikatai, architect, associate of Matthew Evans, who designed the plans, whose qualifications were accepted by the Board as an expert in the field of architecture. Mr. Aikatai testified that the existing building on the site is in very poor condition and beyond fixing, so they are proposing to demolish it and construct a new one. There is an existing driveway and wall in the front yard, all will be removed. No increase in the number of bedrooms, existing house has 3 bedrooms; new house will have 3 bedrooms, no increase in the parking required. The new structure will improve the site and the neighborhood generally. New house will have a garage and will provide two off-street parking spaces as required by Ordinance.

Mr. Aikatai further testified that the property is just about half the minimum area and width permitted in the zone (2,697 SF where 5,000 SF required; 25' wide where 50' required). The extremely undersized nature of this property is driving the need for variance relief, which Mr. Aikatai identified as follows:

- Lot area
- Lot width
- Front yard setback: 25' required; 20.4' existing; 18' proposed
 - Mr. Aikatai noted that the proposed front yard setback is consistent with the front yard setbacks of neighboring properties, which are between 12'-14' to the west and east)
- Side yard setback (one): 6' required; ~1.1' existing (west)/7.2' (east) existing; 3.1' proposed east & west.
- Side yard setback (combined): 16' required; 8.7' existing; 6.2' proposed.
- Rear yard setback: 35' required; 37' existing; 34' proposed.
- Lot coverage: 27% max permitted; 35% proposed.

Mr. Aikatai further testified that these variances can be granted under the hardship criteria of NJSA 40:55D-c(1) in that this property is a pre-existing undersized lot, which has been lawfully developed with an existing single-family residence, now in poor condition, which is surrounded by fully developed properties.

At the conclusion of the testimony, the Board opened the hearing to the public; one interested party appeared, and identified herself as Melita Bilali, 37 Center St. Ms. Bilali expressed her concerns about parking in the neighborhood; there are a lot of houses being renovated and expanded and the parking demand in this neighborhood is high. Mr. Peterson confirmed that the Applicant will be providing the two off-street parking spaces required by Ordinance- one in a one-car garage and one in front of the garage. Ms. Bilali stated that there are often new houses with many more cars than the two that are required. Chairman Zecchino stated that the Applicant is not asking for a parking variance, and they are providing the number of parking spaces required by ordinance.

In response to a question from Cmr. Foukas as to whether the proposed new house will be an improvement over existing conditions, Mr. Peterson confirmed that it will be a significant aesthetic improvement to the neighborhood.

At the conclusion of the testimony, Commissioner Molner makes a motion to approve, seconded by Commissioner Foukas; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

**5. CATHOLIC CHARITIES, DIOCESE OF PATERSON, 23 Vincent Dr., Bl. 63.04, Lot 3;
Zone: RA-1**

Joseph Wenzel, Esq. entered his appearance on behalf of Applicant Catholic Charities, Diocese of Paterson, and states that he will provide fact witness testimony from Joanne Miller, executive director of Applicant, and architectural testimony from Scott Lurie, R.A.

Matthew Trello, Esq., entered his appearance on behalf of objecting neighbor Mr. Albumia. Mr. Trello advised that the parties have reached agreement on the objectors' issues.

Mr. Wenzel called his first witness, Joanne Miller, executive director of Catholic Charities, Diocese of Paterson, who testified as follows: they have another group home at 86 Allwood Place; the purpose of this application is to move that house to the new site at 23 Vincent Drive. She testified that the reason for the relocation is that they support 5 people with intellectual disabilities who are aging, and they want them to be able to age in place, so they want to add the two ramps to the home. There will be 5 individuals with disabilities residing at 23 Vincent Drive. There are usually 2 staff members present during the day and 1 overnight. This property is a ranch with a basement. There is a state requirement that all group homes must have ramps for ADA access, the use is regulated by the State of NJ; the requirement is that this house must have 2 ramps for access. This site has been approved by the State.

Chair asked if the number of residents could increase; Ms. Miller stated that the State will not allow that number to increase. One staff member lives downstairs to cover any emergency. In response to a question from Commissioner Foukas, Ms. Miller confirmed that the other residence on Allwood will be closed.

Ms. Miller further testified that staff drive their own vehicles, transportation for residents is provided. The parking of those vehicles will occur solely in the rear of the property; the street in

front of the house is a no parking zone, so they are seeking permission to have the cars in the back. Mr. Trello has no questions.

Interested party: Carol Pruzansky, 47 Vincent Drive: concerned about the people who live there- is this a facility? Ms. Sweet noted that the use is permitted by State statute in all residential zones. Ms. Miller testifies that the residents are people with developmental disabilities, who need additional assistance in daily living. This is like any other family of individuals who live together; if someone moves out, another similarly situated person will move in, there is a substantial waiting list. Ms. Pruzansky states that she does not want people walking around the neighborhood or knocking on doors or loitering in the park. Ms. Miller testifies that there will be five bedrooms on the first floor; they are doing interior renovations. Ms. Pruzansky asks about the potential to move the ramp to the side. Mr. Wenzel says the side ramp will be modified as part of the agreement with Mr. Trello/objectors.

Mr. Wenzel then called architect Scott Lurie, who provided his qualifications and was accepted by the Board as an expert in the field of architecture. Mr. Lurie testified that he prepared the architectural plans submitted in support of the application. Mr. Lurie testified that the existing building footprint will remain the same. The only need for variances is due to the new ramps. Mr. Lurie stated that the first floor elevation requires the front ramp to be the configuration shown on the plans; this is the minimum needed to provide safe ingress/egress to the building, creating the need for the front yard setback variance, where 35' is required and 29' is proposed. The front ramp will be screened by landscaping around the left side and the front, so there will be arborvitae to shield the view of the ramp. In terms of the rear of the property, the applicant is proposing to modify the small covered patio, by removing the roof and providing 3 parking spaces in the rear for use by staff. There are also 2 spaces in the garage, for a total of 5 on site. Regarding the side ramp, the applicant has worked with Mr. Trello to modify the plan, which was marked as Exhibit A-1 in evidence. Testifying to exhibit A-1, Mr. Lurie stated that the new ramp plan will allow for the side ramp to go out the side door and proceed to the back yard, eliminating the second front yard setback variance. The new ramp has several switchbacks, 144' in length; the originally proposed ramp was 65' in length. It is visually compressed with the switchbacks, so you won't be able to see the length. The visual impacts will be lessened. The applicant has also agreed to provide plantings around the side ramp to screen it from view. The plantings will be on the neighbor's lot, as agreed by the parties. A side yard setback variance is still required for the side ramp; a 5.7' side yard setback is proposed where 10' is required. Pre-existing minimum lot width of 64.3' where 75' required; 64.3' existing. A variance from the combined side yard setback requirement is still necessary: 24' required; 23.9' existing; 18.5' proposed. This is due to the undersized lot width.

Mr. Trello stated that his client's concerns have been addressed; the parking lot to the rear will be screened, as will the ramps.

Ms. Pruzansky, asked who will maintain the property and landscaping, and whether the plantings will be mature. Chair said the owner will maintain it just like any other home. Mr. Wenzel stated that the plantings will be 6' at least to cover the height of the ramp. Commissioner Foukas suggested that they get the 6' arborvitae to provide immediate screening. At the

conclusion of the testimony, Vice Chairman Scorziello made a motion to approve, subject to the stipulation that the Applicant plant 6-foot tall arborvitae to screen the ramp, and further that the Applicant revise and resubmit the plans to include the modified ramp location depicted on Exhibit A-1, as well as to include the proposed landscaping as agreed upon at the hearing. Commissioner Sochon seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

6. PSE&G, 121 St. Andrews Blvd & Mt. Prospect Ave., Block 41.08, Lots 1 & 2; Zones: M-2 & RA-2

Jennifer Porter, Esq., CSG Law, appeared on behalf of Applicant PSE&G; she advised that she will present the testimony of three witnesses: site engineer Kenneth Kimmel, acoustical engineer Michael Conaway, and professional planner Noreen Merainer. Ms. Porter provided an opening statement describing the property as the Athenia Switching Station, it is split-zoned among three districts, mostly M-2 but a portion in R-2A zone. The proposed wall will cross the zone line. PSE&G recently replaced a transformer at the site, which triggered the need for the installation of a sound barrier. PSE&G obtained a construction permit with a temporary sound wall, which requires a conditional use variance, since the wall does not meet all of the bulk requirements, specifically the rear yard setback requirement of 40', where 6.7' is existing/proposed. As for the permanent sound wall, the City Code provides that walls in excess of 2' are conditionally permitted uses so long as they meet the bulk requirements. The permanent sound wall requires a rear yard setback variance and a setback variance to the adjacent lot in the residential zone.

Mr. Kimmel set forth his qualifications, which were accepted by the Board as an expert in the field of site engineering. Mr. Kimmel described the project in reference to a Google Aerial photo marked as Exhibit A-1, and identified the location of the existing temporary sound wall. Mr. Kimmel testified that the existing temporary sound wall was constructed because they needed to put the new transformer into service as quickly as possible. The temporary sound wall is shown in blue on the plan. The proposed permanent sound wall, shown in red, crosses the zoning district boundary. Mr. Kimmel then addressed the comments in the Neglia report. He then described the transformer failure that led to the replacement. The sound wall is required as part of the State permitting process; the need for the temporary wall is because the transformer is emitting noise and they want to mitigate that while it takes time to build the permanent wall. Mr. Kurus said they have no problems with the plan; the applicant agreed to address all of Kurus's comments. Mr. Graviano said that his primary concern is that the Applicant use the upgraded wall depicted on his report. Ms. Porter said that they would comply with the upgraded wall as shown on Mr. Graviano's report. Mr. Graviano said that his only other concern is whether the wall is long enough. Mr. Kimmel said he believes the wall is long enough; the sound engineer will address further.

Ms. Porter then called Mr. Conaway, who provided his qualifications, and was accepted by the Board as an expert in the field of acoustical engineering. Mr. Conaway testified that he

performed numerous studies, but basically the new transformer produces more noise. They needed to develop a sound wall that would meet the NJ Noise Code standards for nighttime, which is less than 50 db. Mr. Conaway testified that the wall has been designed to mute the noise from the transformer where all the fans are on, this is a worst-case scenario but does occur at peak load times. This wall is designed to deflect noise from the transformer; it is noisier in the summer, quieter in the winter. Commissioner Eramo asked if there's something there now, Mr. Conaway stated that the temporary wall is there now. Ms. Porter stated that she spoke with a neighbor who told her she likes the new wall design. Mr. Conaway agreed to take post-construction noise readings if the Board sees fit; Chair Zecchino said he would like that to be done.

Ms. Porter then called Noreen Merainer, Professional Planner, who works for PSE&G, her title is licensing project manager; she obtains land use and governmental approvals for PSE&G projects. The Board accepted her qualifications as an expert in the field of professional development planning. Ms. Merainer testified the plan is to replace a temporary sound wall with a permanent sound wall to protect the neighbors on Frost Court. This site has been in use since 1926; it is an inherently beneficial use. It is expected that as a utility, they have to maintain and replace their equipment, and protect surrounding properties.

Ms. Merainer then testified with regard to the positive criteria for the grant of the conditional use variance, as follows:

1. This is an inherently beneficial use; allowing us to provide this wall promotes planning purposes. Site is uniquely suited, as it has been there for 96 years. Purposes of zoning are promoted: general welfare, neighboring municipalities, county and region.
2. MLUL wants zoning to provide sufficient space for a variety of uses in appropriate locations to meet the needs of all NJ citizens
3. City has an interest in development that encourages coordination among uses and more efficient use of land. Already a switching station there, makes sense to allow expansion and protect adjacent residential uses.
4. Promotes the health, safety and welfare.
5. Master plan encourages efficient land use.
6. Improvement to infrastructure and investment in city

Negative criteria:

1. No substantial detriment; no change to character of the neighborhood
2. Except for the rear yard setback, all conditions of the use standard are met.
3. No detriment to neighboring properties, it provides visual and acoustic protection to the neighboring owners.
4. Master plan objectives and public good are enhanced by this application.
5. No detriments.
6. Approve application so PSE&G can protect the residents.

At the conclusion of the testimony, Mr. Graviano stated that the Board's duty is to consider whether conditions can be imposed to alleviate any negative impacts caused by the deviation from the conditional use standards. In this case, the application can be approved with the conditions previously agreed to by the Applicant: the plans will be revised to depict the enhanced wall design identified in his report; post-construction noise readings will be done at peak level once construction is completed to determine whether the wall is suitable, and provided to the Board Engineer; the wall can be extended if necessary to provide additional noise mitigation; and the Applicant will comply with the comments contained in the Board Engineer and Planner's reports. Vice Chairman Scorziello made a motion to approve the application, noting that it is essential and beneficial to the community, subject to the stipulations identified by the Board Planner. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

ADOPTION OF MEMORIALIZING RESOLUTIONS/MINUTES

1. **DURANGO SISTERS LLC**, 363 Lakeview Ave., Block 1.27, Lot 9, Zone: B-C
Approval of preliminary and final site plan with conditional use and bulk variances to renovate and reuse an existing site formerly used as a bar/restaurant as a new restaurant/bar.

Commissioner Foukas made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

2. **YEHOSHUA ALLSWANG**, 464 South Parkway, Block 58.01, Lot 6; Zone:RA1
Approval of bulk variances from the minimum side (single & combined) and rear yard setback requirements, and from the requirement that a driveway face a garage, for the construction of an addition to a single-family home.

Vice Chairman Scorziello made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino.

3. **CARLOS LANGE**, 473 Highland Ave., Block 21.04, Lot 5, Zone: RB2
Approval of bulk variances from the required minimum rear yard setback and maximum floor area of an accessory structure to allow the Applicant to maintain and complete a partially-constructed detached two-car garage in the rear yard of an existing single-family residence.

Commissioner Molner made a motion to approve. Commissioner Sochon seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chairman Scorziello, and Chairman Zecchino

4. Minutes of the June 19, 2024 Regular Meeting

Commissioner Sochon made a motion to approve. Commissioner O'Connor seconded the motion; voting in favor are Commissioners Eramo, O'Connor, Sochon, Molner, Foukas, Vice Chair Scorziello, and Chairman Zecchino.

There being no further business before the Board, Commissioner Foukas moved to adjourn. The motion was seconded by Commissioner Sochon, with the unanimous approval of all Board members present, the meeting was adjourned at 10:07 p.m.

Respectfully submitted,
JESSICA L. SWEET, ESQ.,
COUNSEL SECRETARY